

104TH CONGRESS
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S. RES. 89

Regarding bribery in international business transactions and the discrimination against United States exports that results from such bribery.

IN THE SENATE OF THE UNITED STATES

MARCH 16, 1995

Mr. FEINGOLD submitted the following resolution; which was referred to the
Committee on Foreign Relations

RESOLUTION

Regarding bribery in international business transactions and the discrimination against United States exports that results from such bribery.

Whereas a stable and predictable international business environment is necessary to advance economic development worldwide;

Whereas corrupt practices such as bribery and illicit payments distort the international business environment and sabotage fairness and competitiveness in international export markets, particularly for small- and medium-sized businesses;

Whereas corrupt practices weaken foreign assistance programs and other transactions for the benefit of the general population by increasing the risk of the improper use

of funds from such assistance and increasing the cost of providing such assistance;

Whereas bribery in international business, investment, and trade is ethically and politically unacceptable;

Whereas United States nationals and companies, and their foreign subsidiaries, are prohibited from bribing foreign officials under the Foreign Corrupt Practices Act of 1977 (Public Law 95–213);

Whereas United States trade competitors and nationals of other industrialized countries are not prohibited by law from utilizing bribes in retaining or obtaining foreign procurement contracts;

Whereas some countries permit a deduction for income tax purposes for bribes paid to secure foreign business;

Whereas ineffective enforcement or absence of anti-bribery laws in many countries serves to discriminate against United States nationals and businesses in competition for procurement contracts abroad since the payment of bribes by foreign companies is often the decisive factor in the award of such contracts;

Whereas nations that engage in international trade have the responsibility of combating bribery and corruption, even if their own citizens may be subject to penalties therefor;

Whereas the failure of any nation to punish bribery undermines efforts in the international market to combat corrupt practices;

Whereas effective anticorruption statutes include criminal, commercial, civil, and administrative laws prohibiting bribery of foreign public officials, tax laws which make bribery unprofitable, transparent business accounting requirements that ensure proper recording of relevant pay-

ments and appropriate inspection of such records, prohibitions on licenses, government procurement contracts, and public subsidies, and substantial monetary fines for bribery;

Whereas an improvement in international activities to combat bribery would result from cooperation between countries in investigations into bribery, including the sharing of information, the expediting of requests for extradition, and the entry into mutual agreements and arrangements to combat bribery;

Whereas the implementation of regulations to combat bribery and corruption by international organizations and international financial institutions would enhance efforts to combat bribery;

Whereas the United Nations Commission of Transnational Corporations concluded in 1991 that international action is needed to combat the problem of bribes and other illicit payments in international business transactions;

Whereas the Organization for Economic Cooperation and Development passed a resolution on May 27, 1994, recommending that OECD Member states “deter, prevent, and combat the bribery of foreign public officials in connection with international business transactions”;

Whereas the Clinton administration has actively pursued antibribery initiatives in the interest of free and fair international trade; and

Whereas these initiatives will help strengthen vibrant international trade and export markets and ensure fair competitive conditions for United States exporters: Now, therefore, be it

1 *Resolved*, That it is the sense of the Senate that—

1 (1) the Clinton administration is commended
2 for its efforts in encouraging integrity in inter-
3 national business transactions among our trading
4 partners and competitors, and the United States
5 Trade Representative, the Secretary of Commerce,
6 and the Secretary of State should continue to raise
7 the need for such integrity with other industrialized
8 nations at every possible venue;

9 (2) the United States should strongly urge uni-
10 versal adoption of the principles set forth in the For-
11 eign Corrupt Practices Act of 1977 (Public Law 95-
12 213) in order that adopting countries implement ef-
13 fective means, in accordance with the legal and ju-
14 risdictional principles of such countries, of combat-
15 ing bribery of foreign public officials, including the
16 imposition administrative, civil, and criminal sanc-
17 tions for such bribery; and

18 (3) the United States Government should enter
19 into negotiations in order to establish regulations for
20 international financial institutions and international
21 organizations that prohibit bribery of foreign public
22 officials and impose sanctions for such bribery.

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